

be suitable for grazing livestock or mechanical harvest. Forage to be mechanically harvested shall be treated under the rules for low-yield crops as calculated under §1437.103. Claims on forage for grazing benefits will, contrariwise, be determined under this subpart. However, the provisions in this subpart shall govern for all claims including forage for mechanical harvest.

(b) Producers of forage must, in addition to the records required in §1437.7, specify the intended method of harvest of all acreage intended as forage for livestock consumption as either mechanically or grazed.

(c) Producers must, in the administrative FSA office for the unit, request an appraisal prior to the onset of grazing of any intended mechanically harvested forage acreage that will be both mechanically harvested and grazed.

(d) Forage acreage reported to FSA as intended to be mechanically harvested which is subsequently completely grazed will be considered for crop definition purposes as mechanically harvested. Expected production of the specific acreage will be calculated on the basis of carrying capacity.

(e) Small grain forage is the specific acreage of wheat, barley, oats, triticale, or rye intended for use as forage. Small grain forage shall be considered separate crops and distinct from any other forage commodities and other intended uses of the small grain commodity. In addition to the records required in §1437.7 producers must specify whether the intended forage crop is intended for fall/winter, spring, or total season forage. In addition to other eligibility requirements, CCC will consider other factors, such as, water sources and available fencing, and adequate fertilization to determine small grain forage eligibility, yields, and production.

(f) CCC will establish forage losses of acreage intended to be grazed on the basis of:

(1) For improved pasture, as determined by CCC, a similar percentage of loss of mechanically harvested forage acreage on the farm, or similar farms in the area; or

(2) For native pasture, as determined by CCC, the percentage of loss as determined by two independent assessments of pasture conditions.

§ 1437.402 Carrying capacity.

(a) CCC will establish a carrying capacity for all grazed forage present in the county for purposes of administering this program and to that end:

(1) Multiple carrying capacities may be determined for a specific vegetation if factors, such as soil type, elevation, and topography, result in a significant difference of carrying capacity within the county.

(2) CCC may establish separate carrying capacities for irrigated and non-irrigated forage acreage when acreage of traditionally irrigated forage (forage actually irrigated 3 of the last 5 crop years) is present in the county.

(b) Producers may provide evidence that unit forage management and maintenance practices are improvements over those practices generally associated with the established carrying capacity. Based on this evidence, CCC may adjust the expected AUD for the specific forage acreage upward for the crop year NAP assistance is requested by:

(1) Three percent when at least 1 practice was completed at least 1 time in the previous 5 crop years and such practice can be expected to have a positive impact on the forage's carrying capacity in the crop year NAP assistance is requested;

(2) Five percent when 2 or more practices were completed at least 1 time in the previous 5 crop years and such practices can be expected to have a positive impact on the forage's carrying capacity in the crop year NAP assistance is requested; and

(3) Greater than 5 percent when producers provide acceptable records, as determined by CCC, of higher forage production or an increase in animal units supported on the specific forage acreage in 3 of the 5 crop years immediately before the crop year NAP assistance is requested.

§ 1437.403 Determining payments.

Subject to payment limits, availability of funds, and other limits as

§ 1437.404

may apply, payments for losses of forage reported to FSA as intended to be grazed will be determined by:

(a) Multiplying the eligible acreage by the producer's share;

(b) Dividing the result from paragraph (a) of this section by the carrying capacity or adjusted per day carrying capacity established for the specific acreage, as determined by CCC;

(c) Multiplying the result from paragraph (b) of this section by the number of days established as the grazing period;

(d) Adding adjustments of AUD for practices and production to the product of paragraph (c) of this section;

(e) Multiplying the result from paragraph (d) of this section by the applicable percentage of loss established by CCC;

(f) Multiplying the amount of AUD lost to other causes, as determined by CCC, by the producer's share;

(g) Subtracting the result from paragraph (f) of this section from the result from paragraph (e) of this section;

(h) Multiplying the result from paragraph (d) of this section by 0.50;

(i) Subtracting the result from paragraph (h) of this section from the result from paragraph (g) of this section; and

(j) Multiplying the result from paragraph (i) of this section by the AUD value established in accordance with § 1437.11, and then by 55 percent.

§ 1437.404 Information collection requirements under the Paperwork Reduction Act; OMB control number.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for the regulation in this part is 0560-0175.

PART 1439—EMERGENCY LIVESTOCK ASSISTANCE

Subpart A—General Provisions

- Sec.
- 1439.1 Applicability and general statement.
- 1439.2 Administration.
- 1439.3 Definitions.
- 1439.4 Liens and claims of creditors.

7 CFR Ch. XIV (1–1–05 Edition)

- 1439.5 Assignments of payments.
- 1439.6 Appeals.
- 1439.7 Misrepresentation, scheme or device.
- 1439.8 Refunds to CCC; joint and several liability.
- 1439.9 Cumulative liability.
- 1439.10 Benefits limitation.
- 1439.11 Gross revenue limitation.
- 1439.12 Maintenance of books and records.

Subpart B—Livestock Assistance Program

- 1439.100 Administration.
- 1439.101 Applicability.
- 1439.102 Definitions.
- 1439.103 Application process.
- 1439.104 County committee determinations of general applicability.
- 1439.105 Loss criteria.
- 1439.106 Livestock producer eligibility.
- 1439.107 Calculation of assistance.
- 1439.108 Availability of funds.
- 1439.109 Financial considerations.
- 1439.110 Appeals.
- 1439.111 Refunds to CCC; joint and several liability.
- 1439.112 Miscellaneous.

Subpart C [Reserved]

Subpart D—Pasture Recovery Program

- 1439.301 Administration.
- 1439.302 Definitions.
- 1439.303 General description.
- 1439.304 Eligible persons.
- 1439.305 Eligible land.
- 1439.306 Duration of contracts.
- 1439.307 Gross revenue limitation.
- 1439.308–1439.319 [Reserved]
- 1439.320 Obligations of participant.
- 1439.321 Obligations of the Commodity Credit Corporation.
- 1439.322 Eligible practices.
- 1439.323–1439.329 [Reserved]
- 1439.330 Enrollment.
- 1439.331 Termination of PRP contracts.
- 1439.332 Contract modifications.
- 1439.333–1439.339 [Reserved]
- 1439.340 Payments.
- 1439.341 Levels and rates for payments.
- 1439.342–1439.349 [Reserved]
- 1439.350 Payments to participants.
- 1439.351 Violations.
- 1439.352 Executed PRP contract not in conformity with regulations.
- 1439.353 Performance based upon advice or action of representative of the Secretary of Agriculture.
- 1439.354 Access to land under contract.
- 1439.355 Appeals.
- 1439.356 Refunds to CCC; joint and several liability.
- 1439.357 Miscellaneous.

Subpart E [Reserved]